BOARD OF WATER AND NATURAL RESOURCES NOTICE OF PUBLIC HEARING TO AMEND RULES

A public hearing will be held on June 27, 2013, at 1:00 p.m. CDT in the Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, South Dakota to consider amendments to administrative rules in chapters

74:05:05	Director areas in water development districts;
74:05:07	Consolidated water facilities construction program;
74:05:08	State water pollution control revolving fund program;
74:05:10	Solid waste management program; and
74:05:11	Drinking water state revolving fund program.

Chapter 74:05:05 Director areas in water development districts;

The effect of the proposed revisions to ARSD 74:05:05 will be to redraw the director areas in the James River, East Dakota, and West Dakota Water Development District areas (74:05:05:16, 74:05:05:20,74:05:05:21, respectively)

The reason for the amendments is due to the withdrawal of a portion of Miner County from the James River Water Development District and to correct erroneous designations for voting districts in Minnehaha and Pennington Counties.

Chapter 74:05:07 Consolidated water facilities construction program

The effect of the proposed revisions to ARSD 74:05:07 will be to 1) allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding (74:05:08:02); 2) remove application restrictions that prohibit a project receiving more than one grant and one loan in a program year, that require applicants that are not funded resubmit an application in order to compete in a subsequent application cycle, and that require a minimum of 40 percent local share of a total project cost unless waived (74:05:07:03); 3) repeal the section describing the distribution of uncommitted funds (74:05:07:05); 4) require applicants to submit forms on an application provided by the department (74:05:07:08); 5) revise the application review process, to include eliminating the minimum rate requirement and the related waiver process (74:05:07:08.01); 6) include televising and cleaning of sewer lines as an eligible expense (74:05:07:10); 7) revise the factors for decision making (74:05:07:11); 8) extend the time allowed to use funds from 3 years to 4 years (74:05:07:14); 9) revise the provision that the department conduct an overall review of the applicant's financial status (74:05:07:08.01 and 74:05:07:16); 10) repeal the provision that the board may require an environmental statement (74:05:07:17); 11) repeal the technical requirements regarding land surveys, plans and specification preparation, and the establishment of monitoring wells (74:05:07:24); and 12) update or eliminate incorrect statute references and make other minor grammatical changes.

The reason for the amendments is to 1) facilitate project development; 2) allow the board additional flexibility in awarding funding and eliminate confusion resulting from the 40 percent cost share requirement and the requirement of SDCL 46A-1-61 that limits an award for a project to 80 percent of the nonfederal share of expenditures; 3) eliminate duplication between the rules and state statute; 4) assure the proper information is being submitted in the application; 5) eliminate the need for an applicant to have established an utility reserve fund; 6) clarify that televising and cleaning of sewer lines is not subject to the restrictions imposed in section 74:05:07:03; 7) clarify that storm water or non-point source projects are not subject to the minimum rate requirement and that the board may award grant funds to applicants not meeting minimum rate requirements for economic development opportunities, expansion into new areas, regionalization of facilities, or other unique situations; 8) prevent projects that are delayed from losing funding; 9) provide for the applicant's financial status to be reviewed by staff during the

application review process and those findings presented to the board when the funding application is considered; 10 and 11) eliminate duplication between the rules and state statute and 12) assure statute references are correct, clarify program objectives, and improve readability.

Chapter 74:05:08 State water pollution control revolving fund program

The effect of the proposed revisions to ARSD 74:05:08 will be to 1) allow applicants to receive funding for project design activities without being placed in the state water facilities plan (74:05:08:02); 2) allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding (74:05:08:02); 3) repeal the duplicative requirement for the preparation of plans and specifications (74:05:08:11); 4) allow applicants to be awarded solid waste management funds in lieu of or in addition to funds from State Revolving Pollution Control Revolving Fund program (74:05:08:12); 5) allow all nonpoint source project to receive principal forgiveness without meeting the minimum established rate (74:05:08:12.01); 6) repeal the requirement that a financial status, be prepared and provided to the board before a loan is executed (74:05:08:13.01); and 7) update or correct references to the Clean Water Act authorizing legislation, census data, and state statutes and make other minor grammatical changes.

The reason for the amendments is to 1) facilitate project development; 2) allow projects needing additional funds to apply for funding in a timely manner; 3) eliminate duplication between the rules and state statute; 4) allow the board flexibility in maximizing available funding; 5) make principal forgiveness available to all nonpoint source projects, not just solid waste nonpoint source projects; 6) provide for the applicant's financial status to be reviewed by staff during the application review process and those findings presented to the board when the funding application is considered; and 7) assure references to authorizing legislation, census data, and state statute are correct, clarify program objectives, and improve readability.

Chapter 74:05:10 Solid waste management program

The effect of the proposed revisions to ARSD 74:05:10 will be to 1) repeal the provision that requires a minimum of 40 percent local share of a total project cost (74:05:10:06); 2) repeal the requirement that a financial status be prepared and provided to the board before a loan is executed (74:05:10:30) and make the financial status review and preparation part of the application review process (74:05:10:08); 3) discontinue using the price for recyclable materials as a criteria on which to base interest rates and begin using the current rate of alternate federal or state programs as a criteria (74:05:10:12.02); 4) repeal the provision that requires the applicant to provide proof of certain permits prior to disbursement of funds (74:05:10:17); 5) repeal the provision that the board may require an environmental statement (74:05:10:18); 6) repeal the technical requirements regarding land surveys and plans and specification preparation (74:05:10:19); 7) revise the period for drawing funds from two years with a one-year extension with board approval to three years (74:05:10:26); 8) repeal the section describing the distribution of uncommitted funds (74:05:10:28); 9) eliminate the board's ability to waive the required debt coverage ratio due to financial hardship (74:05:10:29); 10) require recipients to maintain proper accounting records (74:05:10:32) and 11) update or correct statute references and make other minor grammatical changes.

The reason for the amendments is to 1) eliminate confusion resulting from the 40 percent cost share requirement and the requirement of SDCL 46A-1-61 that limits an award for a project to 80 percent of the nonfederal share of expenditures; 2) provide for the applicant's financial status to be reviewed by staff during the application review process and those findings presented to the board when the funding application is considered; 3) make interest rate setting criteria consistent with other funding programs with board oversight; 4) allow applicants to draw funds prior to obtaining certain permits if necessary; 5 and 6) eliminate duplication between the rules and state statute; 7) reduce the need for project sponsors to request time extensions; 8) eliminate duplication between the rules and state statute; 9) to assure all

borrowers are collecting sufficient project revenues for loan repayment; 10) decrease the probability of misuse of funds; 11) assure statute references are correct, clarify program objectives, and improve readability.

Chapter 74:05:11 Drinking water state revolving fund program

The effect of the proposed revisions to ARSD 74:05:11 will be to 1) allow applicants to receive funding for project design activities without being placed in the state water facilities plan (74:05:11:02); 2) allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding (74:05:11:02); 3) repeal the duplicative requirement regarding plans and specification preparation (74:05:11:10); 4) repeal the requirement that a financial status be prepared and provided to the board before a loan is executed (74:05:11:19) and make the financial status review and preparation part of the application review process (74:05:11:12.01); 5) make principal forgiveness available to disadvantaged communities (74:05:11:18); and 6) update or correct references to the Drinking Water Act authorizing legislation, census data, and state statutes and make other minor grammatical changes.

The reason for the amendments is to 1) facilitate project development; 2) allow projects needing additional funds to apply for funding in a timelier manner; 3) eliminate duplication between the rules and state statute; 4) provide for the applicant's financial status to be reviewed by staff during the application review process and those findings presented to the board when the funding application is considered; 5) give the board the option to award principal forgiveness to disadvantaged communities; and 6) assure references to authorizing legislation, census data, and state statute are correct, clarify program objectives, and improve readability.

The proposed rules may be accessed on the DENR web page at http://denr.sd.gov/public/rules.aspx#comment or copies may be obtained without charge from the following address:

Department of Environment and Natural Resources Division of Financial and Technical Assistance 523 East Capitol Pierre, SD 57501

Persons interested in commenting on the proposed amendments may do so by appearing in person or by presenting written comments at the hearing. Written comments may also be submitted through the DENR web page at http://denr.sd.gov/public/rules.aspx#comment or mailed to the Board of Water and Natural Resources, Department of Environment and Natural Resources, 523 East Capitol, Pierre, SD 57501. Written comments mailed to the Board must be received by close of business on June 26, 2013.

After the hearing, the board will consider all written and oral comments received on the proposed rules. The board may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is given to persons with disabilities that this hearing is being held in a physically accessible place and that interpreter services will be provided, if necessary, during this hearing. Please notify the Department of Environment and Natural Resources at the above address or by calling (605) 773-4216 at least 48 hours prior to the public hearing if you have special needs for which special arrangements must be made.